

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

IN RE NII HOLDINGS, INC.
SECURITIES LITIGATION

Case No. 1:14-cv-0227-LMB-JFA

JOINT STATUS REPORT AND REQUEST FOR STATUS CONFERENCE

Lead Plaintiffs Danica, Industriens, Operating Engineers Pension Trust Fund, IBEW Local No. 58 / SMC NECA Funds, and Jacksonville P&F (together, “Plaintiffs”), and Individual Defendants Steven P. Dussek, Steven M. Shindler, and Gokul V. Hemmady (together, “Individual Defendants”) (collectively, the “Parties”), respectfully submit this Joint Status Report and Request for Status Conference to advise the Court regarding the status of the related bankruptcy case, *In re NII Holdings, Inc. et al.*, Case No. 14-12611 (Bankr. S.D.N.Y.) (the “Bankruptcy Case”).

As explained more fully below, the Parties wish to advise the Court that the automatic stay in the Bankruptcy Case is no longer in effect and respectfully request a status conference to discuss the impact upon this action (the “Securities Case”) before a scheduling order is entered.

The relationship between the Securities Case and the Bankruptcy Case was set forth in the Parties’ December 2014 Joint Status Report. ECF No. 164. On January 5, 2015, the Parties submitted a Joint Status Report concerning a December 23, 2014 Stipulation and Order entered in the Bankruptcy Case (the “Bankruptcy Stipulation and Order”) between Plaintiffs and NII Holdings, Inc. (“NII” or the “Company”). ECF No. 165. That Status Report and attached Stipulation and Order explained that Plaintiffs and the Company had agreed to resolve NII’s motion filed in the Bankruptcy Court seeking to extend the automatic stay to Plaintiffs’ claims in the Securities Case

against the Individual Defendants (the “Stay Extension Motion”). Bankruptcy Case ECF No. 157-1. Pursuant to the Bankruptcy Stipulation and Order, NII withdrew the Stay Extension Motion without prejudice and the Plaintiffs and the Company voluntarily agreed to extend the automatic stay to Plaintiffs’ claims in the Securities Case against the Individual Defendants for a period through the earlier of (a) May 22, 2015 or (b) the effective date of the reorganization plan proposed by NII in the Bankruptcy Case. NII further agreed to provide certain discovery described in the Bankruptcy Stipulation and Order during the period of the stay.¹

In recognition of the Bankruptcy Stipulation and Order, the Court stayed this action on January 7, 2015. ECF No. 166 (the “Order”). The Court also ordered the parties to provide joint status reports to the extent that there were any significant developments in the Bankruptcy Case that could have an impact on the Securities Case. *Id.*

NII filed its first amended proposed joint reorganization plan (the “Plan”) on April 20, 2015. Objections to the Plan were required to be filed on or before May 18, 2015. On that date, Plaintiffs filed an objection regarding, among other matters, their ability to continue to pursue their claims against NII in the Securities Case solely to the extent of available insurance. The Plaintiffs and the Company resolved some of the Plaintiffs’ objections, but not the objection that would allow the Plaintiffs to pursue the claims against NII. As required by the sections of the Bankruptcy Code regarding the priorities of claims, the Plan provided that no distribution was otherwise available to securities fraud claimants regarding their claims against NII under the Plan, and that those claims would be extinguished and could not be pursued against NII after the Plan was confirmed and became effective. Between June 3 and June 18, the Bankruptcy Court held evidentiary hearings regarding confirmation of the Plan and heard legal argument concerning all objections to the Plan,

¹ During the Stay Period, the Company agreed to provide Plaintiffs certain initial targeted discovery (the “Targeted Discovery”) as set forth in Exhibit A of the Bankruptcy Stipulation and Order. Bankruptcy Case ECF No. 329 at 5. On May 8, 2015, the Company advised Plaintiffs that it had completed the production of the Targeted Discovery. The Plaintiffs and the Company are currently discussing whether the Targeted Discovery is complete.

including the unresolved objection made by the Plaintiffs. On June 18, 2015, the Bankruptcy Court overruled all outstanding objections from the bench and entered an order confirming the Plan (the “Confirmation Order”) on June 19, 2015. Bankruptcy Case ECF No. 831.

The Plan became effective and NII emerged from Chapter 11 on June 26, 2015, the Effective Date of the Plan. Bankruptcy Case ECF No. 848. Pursuant to the Plan and the Confirmation Order, on the Effective Date, Plaintiffs’ claims on behalf of themselves and the putative class against NII for violations of the federal securities laws were extinguished as a result of the discharge afforded to NII under the Bankruptcy Code. However, the Plan does not extinguish Plaintiffs’ claims against the Individual Defendants and will not preclude Plaintiffs from seeking non-party discovery from NII in connection with the Securities Case. Bankruptcy Case ECF No. 831 ¶ 54. The Plan, as part of the resolution of the Plaintiffs’ other objections, also required NII and its successors to preserve documents that may be relevant to the claims in the Securities Case. *Id.* ¶ 55.

Now that the Plan is effective, the automatic stay is no longer in effect. The Parties respectfully request a status conference on July 24, 27, 28, or 29 so that they may discuss with the Court the impact of the Bankruptcy Case on the Securities Case before a scheduling order is entered. Respectfully submitted,

Dated: July 8, 2015

By: /s/ Susan R. Podolsky

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on July 8, 2015.

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